

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.989 OF 2024

Wasim Iqbal Khan Applicant
Versus
The State of Maharashtra Respondent

Mr. Waqar Pathan, Advocate for the Applicant.
Ms. Rajeshree V. Newton, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 12th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.181/2024 registered at Kondhwa Police Station, Pune on 19.2.2024 under sections 341, 324, 323, 294, 354 read with 34 of IPC.

2. Heard Mr. Waqar Pathan, learned counsel for the Applicant and Ms. Rajeshree Newton, learned APP for the Respondent-State.

3. The FIR is lodged by one Mohammad Yakub Shaikh. He has stated that there was enmity between the informant and his wife on one side and the Applicant on the

other. There were previous offences registered against the Applicant at the instance of the informant. The incident in question took place on 18.2.2024 at about 3.00 p.m.. The informant and his wife were going towards Kondhwa police station. The present Applicant and one Yunus were sitting at a place about 1 km away from the informant's house. When he saw the informant and his wife, the Applicant stopped their two-wheeler and abused the informant's wife. He started pulling her *burakha*. The informant got down from his two-wheeler. The Applicant held him by his collar. The Applicant's friend Yunus held the informant. The Applicant had a gas-cylinder pipe in his hand. He started beating the informant with that pipe. The informant's wife intervened but even she was beaten. After that the people gathered at the spot and the Applicant and other accused went away. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the incident is not correctly described in the FIR. In fact the informant and his wife were travelling on their two wheeler , when they saw the Applicant they took a U-Turn though they

had gone ahead. They came near the Applicant and started abusing him. He submitted that the informant's wife has uploaded a video shooting of that incident on a social networking site which would show that the Applicant has not committed any offence and that in fact the informant and his wife were the aggressors. He further submitted that in any case except Section 354 of IPC, all other offences are bailable. The ingredients of Section 354 of IPC are not made out. The incident shows that there was no intention to outrage her modesty.

5. Learned APP opposed these submissions and produced the investigation papers before me. According to her narration in the FIR shows that by the use of criminal force and by the act of the Applicant it was likely that the informant's wife's modesty would be outraged. Apart from that there was enmity between the parties and there are antecedents against the Applicant, therefore, anticipatory bail should not be granted to the Applicant.

6. I have considered these submissions and I have perused the investigation papers produced before me. The investigation papers contain the statement of the informant's wife and a pan-stall owner Sonu Pande. The investigation papers show that the informant had suffered minor injuries in the nature of blunt trauma.

7. At this stage, it is difficult to observe that the Applicant's defence is totally baseless. There is a possibility of deliberate implication because of the previous enmity, but, at this stage, it would not be possible to make any positive observation in that behalf as it is a matter of investigation.

8. The incident had allegedly occurred when the informant and his wife were passing from the road. There may not be any intention to commit that offence through preplanning or premeditation. There is a background of enmity and hence there is a possibility of false implication. Therefore, the Applicant's custodial interrogation is not justified. However, considering the background of the matter,

the Applicant needs to be put to certain conditions so that such incidents do not take place. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.181/2024 registered at Kondhwa Police Station, Pune, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned police station once a fortnight for a period of four months from today.
- (iii) The Applicant shall not cause any harassment to the informant or his wife.
- (iv) Anticipatory Bail Application stands disposed of accordingly.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2024.04.17
13:49:42 +0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)